

Message Text

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TAGS: PFOR, SP, PINS

SUBJ: ABSENCE OF DUE PROCESS IN SPANISH TRIALS OF TERRORISTS

REF: MADRID 6954

1. DURING A CONVERSATION WITH MINISTER OF JUSTICE SANCHEZ VENTURA ON ANOTHER MATTER, I ASKED HIM TO EXPLAIN THE SIGNIFICANCE OF THE CHANGE OF VENUE IN THE PLANNED TRIAL OF 13 ETA TERRORISTS WHO WOULD NOW BE TRIED BY CIVILIAN COURTS RATHER THAN MILITARY COURTS. THE MINISTER REPLIED THAT THERE WAS NOTHING EXTRAORDINARY ABOUT THIS DECISION WHICH MERELY CONFORMED TO PRESCRIPTIONS IN THE CODE OF MILITARY JUSTICE. THE LATTER, HE SAID, COULD NOT BE INVOKED AUTOMATICALLY AS PROVIDED UNDER THE NEW DECREE/LAW OF THE PREVENTION OF TERRORISM UNLESS THE SUSPECTS WERE DIRECTLY RESPONSIBLE FOR MURDER OF PUBLIC ORDER OFFICIALS AND CONSEQUENTLY FACED THE POSSIBILITY OF A DEATH SENTENCE.

2. I USED THIS OPENING TO DISCUSS THE ISSUE OF TRIALS OF ALLEGED TERRORISTS IN SPAIN. I BEGAN BY DESCRIBING MY IMPRESSION OF PUBLIC REACTION IN THE U.S.; AMERICANS DID NOT CONDOME THE SHOOTING OF POLICEMEN BUT AT THE SAME TIME WERE CONCERNED THAT JUDGMENTS AND SENTENCES SHOULD BE REACHED FOLLOWING FAIR TRIALS IN ACCORDANCE WITH THE LIMITED OFFICIAL USE

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PRINCIPLE OF DUE PROCESS. IT WAS INCOMPREHENSIBLE FOR

AMERICANS TO UNDERSTAND THE PLACE OF MILITARY COURTS IN TIMES OF PEACE IN THE TRIAL OF CIVILIANS, OR THEIR SUMMARY CHARACTER WHICH SEEMED TO CONTRADICT THE PRINCIPLES OF DUE PROCESS.

3. THE MINISTER REPLIED THAT TERRORISM WAS BROUGHT UNDER MILITARY JURISDICTION BY AN AMENDMENT TO THE CODE OF MILITARY JUSTICE IN 1971. MOREOVER, HE ADDED, MILITARY JURISDICTION HAS EXISTED ALONGSIDE CIVILIAN JURISDICTION FOR CRIMES INVOLVING THREATS TO THE SECURITY OF THE STATE, AS WELL AS TO THE COHESIVENESS AND SECURITY OF THE ARMED FORCES FOR ABOUT 100 YEARS. FURTHERMORE, ASSAULTS OR MURDER OF MEMBERS OF THE ARMED FORCES, CIVIL GUARD, AND THE POLICE FALL WITHIN THE PURVIEW OF THE CODE OF MILITARY JUSTICE. THE LAW ON THE PREVENTION OF TERRORISM MERELY INTRODUCED THE OBLIGATORY CHARACTER OF SUMMARY PROCEEDINGS UNDER MILITARY COURT MARTIAL AND THE PENALTY OF DEATH FOR CONVICTIONS INVOLVING MURDER OF A MEMBER OF THE ARMED FORCES OR THE POLICE.
STABLER

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